IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of
Barbara A. Rincavage Group Art Unit: 3623

Application No. 10086253 Examiner: RINES, Robert D.

Filed: 01MAR2002

For: SYSTEM AND METHOD FOR FILLING MEDICAL PRESCRIPTIONS

APPEAL BRIEF

(B) TABLE OF CONTENTS

(C) Real Party in Interest

The Applicants (hereinafter "Appellants"), individuals, are the real parties in interest.

(D) Related Appeals and Interferences

This case was previously appealed to the Board of Appeals. That appeal was docketed to Appeal 2009-004309 and was decided on September 2, 2009. A copy of the decision is attached under Appendix (x).

(Ei) Status of Claims

Claims 21 to 40 are pending, stand rejected and are on appeal.

The claims on appeal are set forth in the attached Appendix. Claim 21 is an independent method claim and claims 22 to 30 from claim 21. Claim 31 is an independent system claim and claims 32 to 39 depend from claim 31.

(F) Status of Amendments

No amendments were filed subsequent to final rejection.

(G) Summary of Claimed Subject Matter

This application claims an aspect of an invention relating to a processing center method and system for communication between a pharmacist and a prescribing physician. Prior art systems and methods (prior to Appellants' March 1, 2002 filing date) permitted a physician to enter a prescription into a processing center for retrieval and fulfillment by a pharmacist However, the prior art systems were limited in that the pharmacist could only reply to the physician prescription by a confirming "yes" that the prescription was filled.

There are instances where a pharmacist should properly exercise a brand or dosage discretion in filling a prescription. For example in instances, a pharmacist may fill a prescription with a generic rather than a prescribed name brand or with a dosage that is equivalent but different from prescribed dosage, e.g. 20 pills at half strength for 10 prescribed pills at full strength). A pharmacist should report this discretion exercise to the prescribing physician via the processing system. However, prior art "yes" methods and systems did not provide for entering a filled description into a processing system that was different with respect to brand or dosage from a prescribed prescription.

The present claimed invention relates to a processing center method and processing center system for a pharmacist to communicate "back and forth" with the physician with respect to brand or dosage.

Current method claims 21 to 30 claim "entering [a] filled and different medication brand or dosage into [a] processing center [12] in fulfillment of [a] prescribed prescription" (the new method recitation) and current system 10 claims 31 to 40 claim a processing center [12] that "accepts filled prescription information through the network from the pharmacist 20 in fulfillment of the prescribed information but that differs in at least one respect from medication brand or dosage of the prescribed prescription information" (the new system recitation).

(H) Grounds of Rejection to be Reviewed on Appeal

The issues on appeal are (i) whether the subject matter of claims 21 to 22, 27 to 32 and 37 to 40 would have been obvious under 35 U.S.C. 103(a) over Denny Publication 20040107117 dated June 3, 2004, filed November 25, 2003 ("Denny") and Borsand et al. Publication 20030074225 dated April 17, 2003 ("Borsand") and whether the subject matter of claims 23 to 26 and 33 to 36 would have been obvious under 35 U.S.C. 103(a) over Denny, Borsand and Keresman III, et al. Publication 20010047281 ("Keresman").

(I) Argument

Claims 21 to 40 are pending. This is an appeal from an office action mailed April. 27, 2010 finally rejecting claims 1 to 40.

This Application was filed March 1, 2002. A September 2, 2009 Board of Appeals decision upheld a final rejection rejecting claims under 35 U.S.C. §103(a) over Denny 20040107117 ("Denny") and Borsand et al. 20030074225 ("Borsand") and rejecting claims under 35 U.S.C. §103(a) over Denny, Borsand and Keresman III, et al. ("Keresman"). Appellants filed an October 30, 2009 Amendment after Final with RCE to cancel all claims and substitute the presently pending new claims 21 to 30 to a "prescription fulfillment method" and claims 31 to 40 to a "prescription fulfillment system."

The April 27, 2010 Final Rejection rejected claims 21 to 22, 27 to 32 and 37 to 40 under 35 U.S.C. 103(a) over Denny Publication 2004/0107117 dated June 3, 2004 (Denny) and Borsand et al. Publication 20030074225 dated April 17, 2003 (Borsand) and rejected claims 23 to 26 and 33 to 36 would have been obvious under 35 U.S.C. 103(a) over Denny, Borsand and Keresman III, et al. Publication 20011004728 1dated November 29, 2001 (Keresman)..

These rejections are the only issues in this Appeal. Appellants' arguments in this appeal are that the references do not make out a *prima facie* case of obviousness of the claimed invention and the Denny publication is not prior art.

(1) THE REFERENCES FAIL TO ESTABLISH PRIMA FACIE OBVIOUSNESS

During patent examination, the PTO bears an initial burden of presenting a *prima facie* case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). The MPEP is in accord: "To establish a prima facie case of obviousness... the prior art reference (or references when combined) must teach or suggest all the claim limitations," MPEP 2143.

To make out a *prima facie* case of obviousness, the PTO must show in the references (by column and line) the teaching that purportedly renders the invention obvious. See *In re Rijckaert*, 28 USPQ2d 1955, 1957 (Fed.Cir. 1993). If the PTO cannot point to express

statements or implied suggestions of the claimed method or system invention in Borsand or Denny (the references applied to the independent claims 21 and 31) then the rejections must be withdrawn. *See In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988).

Appellants have argued that the cited references, Denny, Borsand and Keresman, do not teach or suggest the claims limited to the new method recitation and do not teach or suggest the claims limited to the new system recitation. T

At page 7, in response the Final Rejection states:

> ... as is evidenced by Borsand et al., it is well known in the prescription fulfillment art for the pharmacist to record or enter into a database, information regarding the specifics of a filled prescription including cost, drug type, and quantity administered to the patient. Accordingly, Borsand et al. teach a method wherein said filled prescription data includes information for said presented pharmaceutical type and said presented quantity and "wherein the filled prescription is different from the retrieved prescription in respect of at least one or medical brand and dosage..." (Borsand et al.; paragraphs [0005] [0040] [0056] [0064] [0086] [0118] *see electronic representation of filled prescription).

Appellants have searched Borsand for the text material quoted by the Final Rejection. There is no such text.

Further, Appellants have reviewed Borsand paragraphs [0005], [0040], [0056], [0064], [0086] and [0118] for any teaching or suggestion of a pharmacist "entering [a] filled and different medication brand or dosage into the processing center in fulfillment of [a] prescribed prescription..." (new method recitation). No such teaching or suggestion appears. Appellants have reviewed Borsand paragraphs [0005] [0040] [0056] [0064] [0086] [0118] for any teaching or suggestion of a processing center that "accepts filled prescription information through the network from the pharmacist in fulfillment of the prescribed information but that differs in at least one respect from medication brand or dosage of the prescribed prescription information" No such teaching or suggestion appears.

Borsand paragraph [0005] relates to the desirability of a variety of management systems and functionalities, none of which relate to communication of an exercised pharmacist's discretion.

Paragraph [0040] relates to an old system that permits a variety of manipulations by "payor 60, PBM 50, pharmacy 40 and provider." Te paragraph [0040] Fig. 1 description teaches away from the current invention by specifying that the "provider 30 may receive a *quick phone call* from a pharmacy 40 after the provider 30 has issued a prescription 28 to confirm a prescription 28...." *See W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied.* 469 U.S. 851 (1984). The paragraph [0040] only describes an old system prior to Appellants' invention of the claimed method and system that provide for a pharmacist" entering [a] filled and different medication brand or dosage into the processing center in fulfillment of [a] prescribed prescription..."

Paragraph [0056] relates to a communications system between a "reimbursement subsystem and pharmaceutical subsystem." Paragraph [0056] has nothing to do with the pharmacist/physician communications of the new method recitation or the new system recitation. The described system "reduce(s) the time pharmacists 40 and providers 30 spend trying to call each other on the phone to clarify or remedy prescription discrepancies" but does not teach or suggest any pharmacist/provider processing system. The pharmacist has no communication access to the provider except for a yes/no fulfillment

The prescription detail described at paragraph [0064] relates to provided input. Paragraph [0064] and the prescription detail have nothing to do with pharmacist access to a provider and is not relevant to the claimed pharmacist/provider processing system.

Paragraph [0086] has to do with the disposition of prescriptions that are "*not* sent electronically through the system," (emphasis added). The input information is provided by a provider and is not information "different from the retrieved prescription," claim 21 and not that "differs...from the prescribed prescription information" (claim 31).

Paragraph [0118] only relates to a provider modifying a prescription. It has nothing to do with a pharmacist "entering [a] filled and different medication brand or dosage into [a] processing center in fulfillment of [a] prescribed prescription" (new method recitation). It has nothing to do with a processing center that "accepts filled prescription information through the network from the pharmacist in fulfillment of the prescribed information but that differs in at

least one respect from medication brand or dosage of the prescribed prescription information" (the new system recitation).

No teaching or suggestion appears of a pharmacist "entering [a] filled and different medication brand or dosage into [a] processing center in fulfillment of [a] prescribed prescription" (new method recitation). No teaching or suggestion appears of a processing center that "accepts filled prescription information through the network from the pharmacist in fulfillment of the prescribed information but that differs in at least one respect from medication brand or dosage of the prescribed prescription information" (the new system recitation). The references do no make out a *prima facie* case of obviousness. "entering [a] filled and different medication brand or dosage into the processing center in fulfillment of [a] prescribed prescription" (the new method recitation). The rejection of claims 21 to 22, 27 to 32 and 37 to 40 under 35 U.S.C. 103(a) over Denny and Borsand and the rejection of claims 23 to 26 and 33 to 36 over Denny, Borsand and Keresman under 35 U.S.C. 103(a) must be withdrawn.

2. DENNY IS NOT PRIOR ART

The Denny reference is a publication that was published on June 3, 2004, filed November 25, 2003. The current application was filed on March 1, 2002. Prior art for the purpose of 35 U.S.C. §103 (a) is defined by 35 U.S.C. §102. Denny is not prior art to the instant March 3, 2002 filing. 35 U.S.C. §102 does not admit of a subsequently filed and published document as prior art. The rejections must be withdrawn.

3. CONCLUSION

For all of the above reasons, Appellant respectfully request this Honorable Board to reverse the 35 U.S.C. §103(a) rejections of claims 21 to 22, 27 to 32 and 37 to 40 under 35U.S.C. §103(a) over Denny and Borsand and the rejection of claims 23 to 26 and claims 33 to 36 under 35 U.S.C. 103 (a) over Denny, Borsand and Keresman.

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(J) Claims appendix

21. A prescription fulfillment method, comprising:

entering an unfilled prescription prescribed by a physician or medical service provider into a processing center wherein the prescribed prescription comprises at least medication brand or dosage;

retrieving the unfilled prescription from the processing center;

filling the prescribed prescription by a pharmacist, wherein the filled prescription is different from the retrieved prescription in respect of at least one of medication brand and dosage;

entering the filled and different medication brand or dosage into the processing center in fulfillment of the prescribed prescription for review by the prescribing physician or medical service provider.

22. The method of claim 21, further comprising comparing the different medication brand or dosage of the unfilled prescription with the filled and different medication brand or dosage and generating a warning of the different medication brand or dosage .

23. The method of claim 21, wherein the method comprises authenticating the identity of the physician or medical service provider by a biometric identifier prior to entering of the unfilled prescription.

24. The method of claim 21, wherein the method comprises authenticating the identity of the physician or medical service provider by voice imprint or fingerprint identifier prior to entering of the unfilled prescription.

25. The method of claim 21, comprising authenticating the identity of the pharmacist by a biometric identifier prior to retrieving the unfilled prescription.

26. The method of claim 21, comprising authenticating the identity of the pharmacist

by voice imprint or fingerprint identifier prior to retrieving the unfilled prescription.

27. The method of claim 21, comprising registering medical service professionals authorized to access a database associated with the processing center.

28. The method of claim 21, wherein entering the filled and different medication brand or dosage generates a warning signal to the prescribing physician or medical service provider.

29. The method of claim 21, wherein entering the filled and different medication brand and dosage generates a warning signal to an insurance company.

30. The method of claim 21, wherein the processing center is accessed by the physician, medical service provider or pharmacist by a telecommunications link.

31. A prescription fulfillment system, comprising:

a processing center that receives prescription information comprising medication brand or dosage prescribed by a physician or medical service provider and wherein the processing center; and

an associated communications network that is accessed by a pharmacist for retrieval of the prescription information;

wherein the processing center accepts filled prescription information through the network from the pharmacist in fulfillment of the prescribed information but that differs in at least one respect from medication brand or dosage of the prescribed prescription information.

32. The fulfillment system of claim 31, wherein the processing center compares the different medication brand or dosage of the filled prescription with the prescribed medication brand or dosage and generates a warning of the different medication brand or dosage .

33. The fulfillment system of claim 31, wherein the processing center authenticates an identity of the physician or medical service provider by a biometric identifier prior to entering of

the prescribed medication brand or dosage.

34. The fulfillment system of claim 31, wherein the processing center authenticates an identity of the physician or medical service provider by voice imprint or fingerprint identifier prior to entering of the prescribed medication brand or dosage.

35. The fulfillment system of claim 31, wherein the processing center authenticates an identity of a pharmacist by a biometric identifier prior to the pharmacist access.

36. The fulfillment system of claim 31, wherein the processing center authenticates an identity of a pharmacist by a by voice imprint or fingerprint identifier prior to the pharmacist access.

37. The fulfillment system of claim 31, wherein the processing center registers physicians or medical service professionals authorized to accessing the processing center.

38. The fulfillment system of claim 31, wherein the processing center generates a warning signal to a physician or medical service provider when filled and different medication brand or dosage is entered into the processing center by the pharmacist.

39. The fulfillment system of claim 31, wherein the processing center generates a warning signal to an insurance company when filled and different medication brand or dosage is entered into the processing center by the pharmacist.

40. The fulfillment system of claim 31, wherein the processing center is accessed by the physician or medical service provider or by an insurance company by a telecommunications link.

(K) Evidence appendix

None

(L) Related proceedings appendix

Attached is the decision on appeal in Appeal 2009-004309

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte BARBARA A. RINCAVAGE and CYNTHIA E. RINCAVAGE

Appeal 2009-004309
Application 10/086,253
Technology Center 3600

Decided: September 2, 2009

Before HUBERT C. LORIN, JOSEPH A. FISCHETTI, and
KEVIN F. TURNER, *Administrative Patent Judges*.

TURNER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellants seek our review under 35 U.S.C. § 134 of the Final Rejections of claims 1-6 and 8-20. We have jurisdiction under 35 U.S.C. § 6(b).

SUMMARY OF THE DECISION

We AFFIRM.[1]

THE INVENTION

Appellants' claimed invention relates to a method for tracking the proper execution of a medical prescription from the time it is prescribed by a physician to the time it is filled by a pharmacist and received by the recipient in the pharmacy. (Abstract).

Independent claim 12, which is deemed to be representative, reads as follows:

> 12. A method of verifying changes made by a pharmacist to medical prescriptions to reduce fraud and mistake in the filling of medical prescriptions, said method comprising the steps of:
>
> entering unfilled prescription data into a secure database, wherein said unfilled prescription data corresponds to a patient's unfilled prescription for at least one pharmaceutical;
>
> retrieving said unfilled prescription data from said database at a pharmacy;
>
> having a pharmacist at said pharmacy fill said unfilled prescription, wherein said pharmacist exercises discretion to alter said prescription so that the filled prescription varies from said unfilled prescription data;
>
> entering filled prescription data into said database, wherein said filled prescription data identifies said at

[1] Our decision will make reference to the Appellants' Appeal Brief ("Br.," filed Mar. 14, 2008) and the Examiner's Answer ("Ans.," mailed Apr. 04, 2008).

least one pharmaceutical and volume actually provided by said pharmacist as said filled prescription;

comparing said filled prescription data to said unfilled prescription data to identify discretion exercised by said pharmacist; and

generating a warning if said discretion exercised by said pharmacist is unjustified.

THE REJECTION

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Keresman, III et al. ("Keresman")	2001/0047281 A1	Nov. 29, 2001
Borsand et al. ("Borsand")	2003/0074225 A1	Apr. 17, 2003
Denny[2]	2004/0107117 A1	Jun. 03, 2004

The Examiner rejected claims 1-6, 8-9, and 12-18 under 35 U.S.C. § 103(a) as being unpatentable over Denny in view of Borsand. Additionally, claims 10-11 and 19-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Denny, Borsand and Keresman.

Rather than repeat the arguments of Appellants or the Examiner, we make reference to the Brief and the Answer for their respective details. Only those arguments actually made by Appellants have been considered in this decision. Arguments that Appellants did not make in the Brief have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

[2] For clarification, U.S. Pat. App. Pub. No. 2004/0107117 is properly spelled Denny.

ISSUES

1. Have Appellants shown Examiner erred in rejecting Claims 1-6, 8-9 and 12-18 under 35 U.S.C. § 103(a) as being unpatentable over Denny and Borsand?

2. Have Appellants shown that Examiner erred in rejecting Claims 10-11, and 19-20 under 35 U.S.C. § 103(a) as being unpatentable over Denny, Borsand and Keresman?

FINDINGS OF FACT

The record supports the following findings of fact (FF) by at least a preponderance of the evidence. *In re Caveney*, 761 F.2d 671, 674 (Fed. Cir. 1985) (explaining the general evidentiary standard for proceedings before the Office).

Facts Related to Claim Construction

1. The disclosure contains no lexicographic definition of "justifiable" or "unjustifiable."

2. The ordinary and customary meaning of "justifiable" is "to show to be right or valid."[3] Accordingly, "unjustifiable" is to show to be wrong or invalid.

3. The disclosure contains no lexicographic definition of "discretion."

4. The ordinary and customary meaning of "discretion" is "freedom or power to act or judge on one's own."[4]

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[3] *Webster's II Dictionary* 392 (3d ed. 2005).
[4] *Webster's II Dictionary* 207 (3d ed. 2005).

Denny

5. Denny is directed to "a prescription verification system [which] . . . receives prescription information including a prescribed drug intended to treat a condition associated with a patient." ([0010]).

6. Denny describes prescription information as "a dosage level for the prescribed drug, the drug label contents and any applicable notes to be included on the bottle, a unique health care provider code identifying the health care provider who input the prescription information, and a patient code uniquely identifying the patient." ([0010]).

7. The pharmacist enters a unique code identifying a prescription identifying the patient, the patient prescription information is received by the pharmacy system from the host, and the prescription is filled by the pharmacist. Subsequently, a confirmation code indicative of a prescription being filled is entered into the system by the pharmacist and sent to the host. ([0041]).

8. The system determines whether or not the data received are valid based upon querying the prescription database. When the information received from the pharmacy system corresponds to prescription information maintained in the host system, a signal identifying a valid prescription is sent to either a health care provider or back to the pharmacy system. Conversely, when the information received from the pharmacy system does not correspond to the prescription information in the host system, a signal identifying an invalid prescription is sent. ([0053]).

Borsand

9. Borsand is directed to a pharmaceutical information tracking system which can check of for unfavorable pharmaceutical interactions and allergic reactions, prevent misuse of a prescription, monitor the filling and re-filling of a prescription, as well as cancel a prescription after it has been issued by a provider. (Abstract).

10. Borsand allows users to monitor pharmacists to prevent changes made to a medical prescription that would alter the filled prescription from the original prescription. Specifically, Borsand discloses that, "it would be desirable if a pharmacist could be prevented from filling a prescription at half strength but twice the volume and cost. It would also be desirable if a [sic] pharmacists could be prevented from filling redundant prescriptions from two or more providers." ([0005]).

11. The pharmacist can modify the prescription after reviewing the prescription as it relates to pharmaceutical interactions, allergies, or other patient attributes that could affect the desirability of filling a particular prescription. ([0087]).

12. The pharmacist enters an electronic representation of a filled prescription into the system once the pharmacist has evaluated the prescription in the context of any attributes or characteristics that could impact the desirability of a particular pharmaceutical. ([0084], [0085] and [0086]).

13. Prescription information includes strength, quantity and the directions for taking the pharmaceutical. ([0064]).

Keresman

14. Keresman is directed to a method of processing drug prescriptions over a network. Each user accesses the network using an account which may be authenticated using biometric techniques. ([0050]).

PRINCIPLES OF LAW

During examination of a patent application, pending claims are given their broadest reasonable construction consistent with the specification. *In re Prater,* 415 F.2d 1393, 1404 (CCPA 1969); *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004).

Limitations appearing in the specification but not recited in the claim are not read into the claim. *E-Pass Techs., Inc. v. 3Com Corp.*, 343 F.3d 1364, 1369 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily).

Although a patent applicant is entitled to be his or her own lexicographer of patent claim terms, in ex parte prosecution it must be within limits. *In re Corr,* 347 F.2d 578, 580 (CCPA 1965). The applicant must do so by placing such definitions in the specification with sufficient clarity to provide a person of ordinary skill in the art with clear and precise notice of the meaning that is to be construed. *See also In re Paulsen,* 30 F.3d 1475, 1480 (Fed. Cir. 1994) (although an inventor is free to define the specific terms used to describe the invention, this must be done with reasonable clarity, deliberateness, and precision; where an inventor chooses to give terms uncommon meanings, the inventor must set out any uncommon

definition in some manner within the patent disclosure so as to give one of ordinary skill in the art notice of the change).

"Section 103 forbids issuance of a patent when 'the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.'" *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, (3) the level of skill in the art, and (4) where in evidence, so-called secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). *See also KSR*, 550 U.S. at 407 ("While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.")

In *KSR*, the Supreme Court held that "[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR*, 550 U.S. at 407. The Court explained:

> When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill.

Id. at 417.

The operative question in this "functional approach" is thus "whether the improvement is more than the predictable use of prior art elements according to their established functions." *Id.* In rejecting claims under 35 U.S.C. § 103(a), the examiner bears the initial burden of establishing a prima facie case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). *See also In re Piasecki*, 745 F.2d 1468, 1472 (Fed. Cir. 1984). Only if this initial burden is met does the burden of coming forward with evidence or argument shift to the Appellants. *In re Oetiker*, 977 F.2d at 1445. *See also In re Piasecki*, 745 F.2d at 1472. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. *See Oetiker*, 977 F.2d at 1445; *see also In re Piasecki*, 745 F.2d at 1472.

In making a rejection, however, an examiner may "take notice of facts beyond the record which, while not generally notorious, are capable of such instant and unquestionable demonstration as to defy dispute." *In re Ahlert*, 424 F.2d 1088, 1091 (CCPA 1970) (*citing In re Knapp-Monarch Co.*, 296 F.2d 230 (CCPA 1961)).

ANALYSIS

ISSUE 1

Claims 1-6, 8-9 and 12-18 rejected under 35 U.S.C. § 103(a) as being unpatentable over Denny and Borsand.

Independent claims 1 and 12

Appellants argue with regard to claim 1, "[t]he Denny reference makes no disclosure concerning the step of analyzing the pharmacists' change to see if it is merely justifiable discretion or an unjustifiable mistake. (Br. 6). Similarly, with regard to claim 12, Appellants argue, "the Denny and Borsand references fail to disclose anything about analyzing the pharmacist's actions to determine if the change made by the pharmacist was either justified or not justified." (Br. 9). We are not persuaded by Appellants' arguments and find that Appellants' Specification provides no lexicographic definition for the terms "justifiable," "unjustifiable" or "discretion." We find the usual and customary meaning of justifiable to mean a valid decision, and unjustifiable to be an invalid decision. Additionally, we find the term discretion to mean acting on one's own. (FF 1, 2, 3, 4).

Accordingly, since neither claims 1 nor 12 provide a clear boundary as to the scope of what justifiable, unjustifiable or discretion consists of, and the Specification provides no clear definition, we construe the limitations according to their broadest reasonable interpretation as either a valid or an invalid decision made by the pharmacist. (FF 1, 2, 3, 4). Further, although claims 1 and 12 are of similar scope, claim 12 differs in that it assumes the pharmacist uses discretion. However, since we believe the claims to be of commensurate scope notwithstanding their wording, and Appellants have presented the same arguments for both independent claims, we will address the claims and their arguments together.

We find that Denny discloses a system which determines whether or not the data received from a pharmacist are valid based upon querying the prescription database. After this determination, a signal is sent identifying whether or not the information received from the pharmacy system corresponds to prescription information maintained in the host system. (FF 8). In other words, we find that Denny analyzes the prescription filled by the pharmacist to determine whether the prescription filled is valid or invalid based upon the prescribed prescription. (FF 8). Thus, based upon the lack of specific lexicographic definitions in Appellants' Specification for the terms justifiable, unjustifiable and discretion, we find the combination of Denny and Borsand makes claims 1 and 12 obvious. Therefore, Appellants' argument is not persuasive as to error in the rejection.

Additionally, Appellants argue that Denny makes no disclosure of entering any form of information regarding how a pharmacist may have changed the prescription. (Br. 6). We do not find this argument persuasive and find that Denny allows a pharmacist to enter a confirmation code indicative of a prescription being filled into the system. (FF 7). This confirmation code, indicative of a filled prescription, is received by the host system and then compared against the prescription information maintained at the host to determine whether the prescription filled matches the original prescription prescribed. (FF 7, 8). Thus, contrary to Appellants' assertion that, "[Denny] makes absolutely no disclosure concerning entering information about how a prescription was actually altered and filled by a pharmacist into a database" (Br. 7), Denny does indeed enter into a database information about how a prescription was actually filled. (FF 6, 7, 8).

Therefore, since Denny enters information about how a prescription was filled, this prescription information would also include how a prescription was actually altered by the pharmacist if the pharmacist was required to do so.

Even assuming that Denny does not explicitly disclose entering any form of information regarding how a pharmacist may have changed the prescription, the rejection is based on the combination of Denny and Borsand. We find that Borsand teaches that a pharmacist can modify the prescribed prescription after reviewing the prescription as it relates to any pharmaceutical interactions, allergies, or other patient attributes that could affect the desirability of filling that prescription. (FF 11). Additionally, Borland discloses that a pharmacist enters an electronic representation of a filled prescription once the pharmacist has evaluated the prescription. (FF 12). A person of ordinary skill in the art would appreciate from a reading of Denny and Borsand, that in order to transmit a signal identifying whether a prescription filled is valid or invalid based upon whether or not the data received from the pharmacist match the original prescription prescribed in the host database (FF 8), the pharmacist must enter information regarding how a prescription filled may have been altered from the original prescription prescribed. Thus, a person of ordinary skill in the art would have known from Borsand that the information entered includes strength, quantity and any alterations or modifications made to the prescription by the pharmacist (FF 11, 12, 13), and applied this technique to Denny when entering any form of information regarding how a pharmacist may have

changed the prescription. (FF 6, 7, 8). Therefore, Appellants' argument is not persuasive as to error in the rejection.

Lastly, Appellants argue that Denny and Borsand make no disclosure concerning the creation of a warning if the changes made by a pharmacist were unjustified. We disagree with Appellants' arguments and find that Denny discloses that when the prescription information received from the pharmacist does not correspond to the prescribed prescription maintained in the host system a signal is generated. (FF 8). We interpret this signal, which indicates that the prescription information is invalid, to be equivalent to a warning as claimed by Appellants in claims 1 and 12. Accordingly, Appellants' argument is not persuasive as to error in the rejection.

ISSUE 2

Claims 10, 11, 19 and 20 rejected under 35 U.S.C. § 103(a) as being unpatentable over Denny, Borsand and Keresman.

Appellants' argue that Keresman, "does not disclose or suggest any system where a pharmacist enters information regarding how the pharmacist altered a prescription." (Br. 10). We disagree with Appellants' argument and agree with Examiner's findings that the Keresman reference shows "the use of biometric identification of registered doctors, pharmacies, and other participants is well known in the prescription drug fulfillment art." (Ans. 16). Contrary to Appellants' argument, the Examiner has cited to the combination of Denny and Borsand to disclose a system where a pharmacist enters

information regarding how the pharmacist altered a prescription. (FF 6, 7, 8).

The Examiner has provided an articulated reasoning with rational underpinning for why a person with ordinary skill in the art would modify the combination of Denny and Borsand, which discloses a system where a pharmacist enters information regarding how the pharmacist altered a prescription discussed *supra*, to use the biometric authentication features found in Keresman. (FF 14). Thus, a person with ordinary skill in the art would know from the biometric authentication taught in Keresman to apply this technique to the combination of Denny and Borsand since all the references relate to prescription fulfillment systems. (FF 7, 9, 14). Therefore, Appellants' argument is not persuasive as to error in the rejection.

Claims 2-6, 8-9, and 13-18

Appellants do not separately argue claims 2-6, 8-9, and 13-18 depending from claims 1 and 12 respectively, and so have not sustained their burden of showing that the Examiner erred in rejecting claims 2-6, 8-9, and 13-18 under 35 U.S.C. § 103(a) as unpatentable over Denny and Borsand for the same reasons we found as to claims 1 and 12, *supra*.

CONCLUSION OF LAW

We conclude that Appellants have not shown that the Examiner erred in rejecting claims 1-6, 8-9, and 12-18 under 35 U.S.C. § 103(a) as being unpatentable over Denny in view of Borsand. Additionally, we conclude

that Appellants have not shown that the Examiner erred in rejecting claims 10-11 and 19-20 under 35 U.S.C. § 103(a) as being unpatentable over Denny, Borsand and Keresman.

DECISION

The decision of the Examiner to reject claims 1-6, 8-9, and 12-18 under 35 U.S.C. § 103(a) as being unpatentable over Denny in view of Borsand and claims 10-11 and 19-20 under 35 U.S.C. § 103(a) as being unpatentable over Denny, Borsand and Keresman is AFFIRMED.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv)(2007).

AFFIRMED

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cc:

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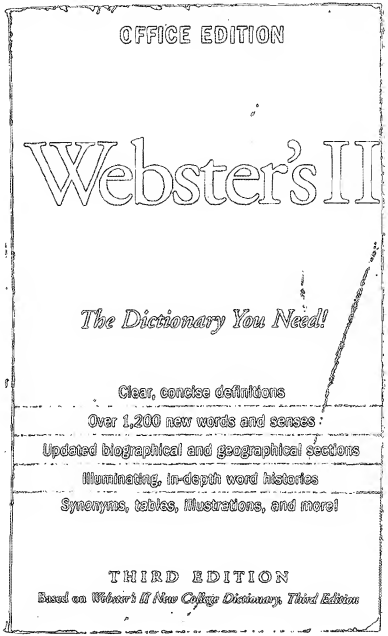
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Contents

To pay out. —dis·burse'ment, dis·bur'sal n. —dis·burs'er n.

disc (dĭsk) n. 1. also disk. Informal. A phonograph record. 2. var. of DISK.

dis·card (dĭs-kärd') v. 1. To get rid of : junk 2a. To throw out (a playing card) from one's hand. b. To play (a card other than a trump) from a suit unlike the card led. —n. (dĭs'kärd') 1. The act of discarding. 2. One that is discarded.

disc brake also disk brake n. A brake whose retarding friction is generated between stationary pads and a rotating disk.

dis·cern (dĭ-sûrn', -zûrn') v. 1. To perceive (something hidden or obscure) : detect. 2. To perceive as separate and distinct : discriminate. 3. To comprehend mentally. —dis·cern'er n. —dis·cern'i·ble adj. —dis·cern'ment n.

dis·cern·ing (dĭ-sûr'nĭng, -zûr'-) adj. Showing insight and judgment : perceptive. —dis·cern'ing·ly adv.

dis·charge (dĭs-chärj') v. 1. To relieve of a burden, load, or contents : unload. 2a. To release, as from confinement or duty. b. To dismiss from employment. 3. To send or pour forth. 4. To shoot or fire. 5. To perform the obligations or requirements of (e.g., an office). 6. To comply with the terms of (e.g., a promise or debt). 7. To undergo or cause electrical discharge. —n. (dĭs'chärj', dĭs-chärj'). 1. The act of discharging or condition of being discharged. 2. Something discharging or discharged.

dis·ci·ple (dĭ-sī'pəl) n. 1. A person who believes in and helps disseminate the teachings of a master. 2. often Disciple. One of Jesus's followers.

dis·ci·pli·nar·i·an (dĭs'ə-plə-nâr'ē-ən) n. A believer in or enforcer of stern discipline.

dis·ci·pline (dĭs'ə-plĭn) n. 1a. Training intended to elicit a specified pattern of behavior or character. b. Behavior that results from such training. 2. A condition of order based on obedience to authority. 3. Punishment meant to correct or train. 4. A set of methods or rules of conduct. 5. A specific branch of knowledge or of teaching. —v. -plined, -plin·ing. 1. To train or develop by teaching and control. 2. To penalize. 3. To impose order on. —dis'ci·pli·nar'y adj.

disc jockey also disk jockey n. A radio announcer whose chief purpose is presenting and playing phonograph records.

dis·claim (dĭs-klām') v. To deny a claim to or association with : disavow. —dis·claim'er n.

dis·close (dĭs-klōz') v. To make known or open to view : expose. —dis·clo'sure n.

dis·co (dĭs'kō') n., pl. -cos. 1. A discotheque. 2. Popular dance music, esp. of the late 1970s, marked by strong repetitive bass rhythms.

dis·col·or (dĭs-kŭl'ər) v. To make or become different in color.

dis·com·fit (dĭs-kŭm'fĭt) v. 1. To thwart. 2. To make uneasy : disconcert. —dis·com'fi·ture' n.

dis·com·fort (dĭs-kŭm'fərt) n. 1. Physical or mental distress. 2. An annoyance or inconvenience. —v. To make uncomfortable.

dis·com·mode (dĭs'kə-mōd') v. -mod·ed, -mod·ing. To inconvenience.

dis·com·pose (dĭs'kəm-pōz') v. 1. To disrupt the composure or tranquility of. 2. To disorder. —dis'com·po'sure n.

dis·con·cert (dĭs'kən-sûrt') v. To upset : discompose. —dis'con·cert'ing·ly adv.

dis·con·nect (dĭs'kə-nĕkt') v. To interrupt or break the connection of or between. —dis'con·nec'tion n.

dis·con·nect·ed (dĭs'kə-nĕk'tĭd) adj. 1. Not connected. 2. Incoherent.

dis·con·so·late (dĭs-kŏn'sə-lĭt) adj. 1. Beyond consolation : utterly dejected. 2. Cheerless : gloomy <a disconsolate landscape> —dis·con'so·late·ly adv.

dis·con·tent (dĭs'kən-tĕnt') n. Lack of contentment : dissatisfaction. —dis'con·tent'ed adj. —dis'con·tent'ed·ly adv.

dis·con·tin·ue (dĭs'kən-tĭn'yōō) v. 1. To bring or come to an end : terminate. 2. To stop trying, taking, or using : abandon. —dis'con·tin'u·ance, dis'con·tin'u·a'tion n.

dis·con·tin·u·ous (dĭs'kən-tĭn'yōō-əs) adj. Marked by gaps or interruptions. —dis·con'ti·nu'i·ty n.

dis·cord (dĭs'kôrd') n. 1. Lack of accord or harmony : dissension. 2. A harsh or confused mingling of sounds. 3. An unpleasant combination of musical sounds : dissonance. —dis·cor'dant adj.

dis·co·theque also dis·co·thèque (dĭs'kə-tĕk', dĭs'kə-tĕk') n. A nightclub featuring dancing to recorded or sometimes live music.

dis·count (dĭs'kount', dĭs-kount') v. 1. To subtract or deduct, as from a price. 2. To purchase, sell, or loan money on (a commercial paper, as a bill or note) after deducting the interest. 3. To disregard or doubt (e.g., a rumor) as being unreliable or exaggerated. 4. To make allowance for. 5. To underestimate the significance of : minimize. —n. (dĭs'kount'). 1. A reduction from a standard price or the full amount of a debt. 2. The rate of interest discounted. 3. The act or an example of discounting a commercial paper. —dis'count'a·ble adj.

dis·coun·te·nance (dĭs-koun'tə-nəns) v. 1. To treat or regard with disfavor. 2. To make uneasy : disconcert.

discount store n. A store that sells goods below the manufacturer's suggested retail price.

dis·cour·age (dĭ-skûr'ĭj) v. -aged, -ag·ing. 1. To deprive of confidence, hope, or spirit. 2. To deter : dissuade. 3. To try to prevent, as by raising objections. • syns: DISHEARTEN, DISPIRIT —dis·cour'age·ment n. —dis·cour'ag·ing·ly adv.

dis·course (dĭs'kôrs') n. 1. Spoken or written expression. 2. A conversation. 3. A formal and lengthy written or spoken

discussion of a subject. —v. (dĭ-skôrs') -coursed, -cours·ing. 1. To write or speak formally and extensively. 2. To converse : talk. —dis·cours'er n.

dis·cour·te·ous (dĭs-kûr'tē-əs) adj. Lacking courteous manners : rude. —dis·cour'te·ous·ly adv. —dis·cour'te·sy n.

dis·cov·er (dĭ-skŭv'ər) v. 1. To gain knowledge of through observation or study. 2. To be the first to find, learn of, or observe. —dis·cov'er·a·ble adj. —dis·cov'er·er n. —dis·cov'er·y n.

dis·cred·it (dĭs-krĕd'ĭt) v. 1. To mar the reputation of : disgrace. 2. To cause to be doubted. 3. To refuse to believe. —n. 1. Tarnish to or loss of one's reputation. 2. Loss of credibility : doubt. —dis·cred'it·a·ble adj. —dis·cred'it·a·bly adv.

dis·creet (dĭ-skrēt') adj. 1. Having or displaying caution and self-restraint : prudent. 2. Not ostentatious : modest. —dis·creet'ly adv. —dis·creet'ness n.

dis·crep·an·cy (dĭ-skrĕp'ən-sē) also dis·crep·ance (-əns) n., pl. -cies also -anc·es. 1. Disagreement, as between facts : inconsistency. 2. An instance of discrepancy. —dis·crep'ant adj.

dis·crete (dĭ-skrēt') adj. 1. Individually distinct : separate. 2. Made up of unconnected distinct parts.

dis·cre·tion (dĭ-skrĕsh'ən) n. 1. The quality of being discreet : circumspection. 2. Freedom or power to act or judge on one's own. —dis·cre'tion·ar'y adj.

dis·crim·i·nate (dĭ-skrĭm'ə-nāt') v. -nat·ed, -nat·ing. 1. To distinguish between things : differentiate. 2. To act prejudicially. —dis·crim'i·nate·ly adv. —dis·crim'i·na'tion n. —dis·crim'i·na'tive adj.

dis·crim·i·nat·ing (dĭ-skrĭm'ə-nā'tĭng) adj. 1. Recognizing or making fine distinctions : perceptive. 2. Fussy.

dis·crim·i·na·to·ry (dĭ-skrĭm'ə-nə-tôr'ē) adj. 1. Displaying or marked by prejudice : biased. 2. Discriminating. —dis·crim'i·na·to'ri·ly adv.

dis·cur·sive (dĭ-skûr'sĭv) adj. Covering a wide field of subjects : digressive. —dis·cur'sive·ly adv. —dis·cur'sive·ness n.

dis·cus (dĭs'kəs) n. 1. A disk, typically wooden, that is hurled for distance in athletic competitions. 2. A small, brilliantly colored disk-shaped South American freshwater fish, Symphysodon discus.

dis·cuss (dĭ-skŭs') v. 1. To talk over : speak about. 2. To consider or examine (a subject) through discourse. —dis·cuss'i·ble adj. —dis·cus'sion n.

dis·cus·sant (dĭ-skŭs'ənt) n. A participant in a discussion.

dis·dain (dĭs-dān') v. 1. To treat contemptuously : despise. 2. To reject scornfully. —n. Scornful aloofness. —dis·dain'ful adj. —dis·dain'ful·ly adv.

dis·ease (dĭ-zēz') n. A condition of an organism that impairs normal physiological functioning. —dis·eased' adj.

dis·em·bark (dĭs'ĕm-bärk') v. To go or cause to go ashore from a ship.

dis·em·bod·y (dĭs'ĕm-bŏd'ē) v. 1. To free (the soul or spirit) from the body. 2. To divest of material form or existence. —dis'em·bod'i·ment n.

dis·em·bow·el (dĭs'ĕm-bou'əl) v. To eviscerate. —dis'em·bow'el·ment n.

dis·en·chant (dĭs'ĕn-chănt') v. To divest of illusions or false beliefs.

dis·en·cum·ber (dĭs'ĕn-kŭm'bər) v. To relieve of burdens or hardships.

dis·en·fran·chise (dĭs'ĕn-frăn'chīz') v. To disfranchise.

dis·en·gage (dĭs'ĕn-gāj') v. To release from something that holds fast, joins, or entangles. —dis'en·gage'ment n.

dis·en·tan·gle (dĭs'ĕn-tăng'gəl) v. To untangle. —dis'en·tan'gle·ment n.

dis·e·qui·lib·ri·um (dĭs-ē'kwə-lĭb'rē-əm, -ĕk'wə-) n. Lack or loss of equilibrium or stability.

dis·es·teem (dĭs'ĭ-stēm') v. To regard with disfavor. —n. Lack of esteem.

dis·fa·vor (dĭs-fā'vər) n. 1. Disapproval. 2. The state of being regarded with disapproval. —dis·fa'vor v.

dis·fig·ure (dĭs-fĭg'yər) v. To mar or ruin the shape or appearance of : deform. —dis·fig'ure·ment n.

dis·fran·chise (dĭs-frăn'chīz') v. To deprive of a franchise, privilege, or right of citizenship, esp. of the right to vote. —dis·fran'chise'ment n.

dis·gorge (dĭs-gôrj') v. 1. To regurgitate : vomit. 2. To spew forth violently.

dis·grace (dĭs-grās') n. 1. The state of being strongly and generally disapproved : shame. 2. Something that brings dishonor, disrespect, or disfavor. • syns: DISCREDIT, DISHONOR, DISREPUTE, IGNOMINY, OBLOQUY, OPPROBRIUM, SHAME —dis·grace' v. —dis·grace'ful adj. —dis·grace'ful·ly adv. —dis·grace'ful·ness n.

dis·grun·tle (dĭs-grŭn'tl) v. -tled, -tling. To make irritable or upset.

dis·guise (dĭs-gīz') v. -guised, -guis·ing. 1. To change the appearance or character of to prevent recognition. 2. To hide or obscure by dissembling : misrepresent. —n. 1. Clothes and often make-up worn to prevent recognition. 2. A pretense that conceals the truth.

dis·gust (dĭs-gŭst') v. 1. To arouse nausea in : sicken. 2. To offend the moral sense of : repel. 3. To cause to become impatient or annoyed. —n. Profound aversion or repugnance. —dis·gust'ed·ly adv. —dis·gust'ing·ly adv.

dish (dĭsh) n. 1a. An open, gen. shallow container for holding, cooking, or serving food. b. The amount a dish holds. 2a. The food served in a dish. b. A particular variety or way of preparing food. 3. Something that resembles a dish, esp. in being concave in shape. —v. 1. To serve (food) in or as if in a dish. 2. To hollow out : make concave.

junior high school *n.* A school that gen. includes the 7th, 8th, and sometimes 9th grades.
ju·ni·per (jōō'nə-pər) *n.* An evergreen tree or shrub of the genus *Juniperus,* having scalelike, often prickly foliage, fragrant wood, and bluish-gray berries.
junk¹ (jŭngk) *n.* 1. Discarded materials such as glass, paper, rags, and metal that can be used for other purposes. 2. *Informal.* Something fit to be discarded : trash. 3. *Informal.* Nonsense. 4. *Slang.* Heroin. —*v.* To throw away as useless.
junk² (jŭngk) *n.* A Chinese flatbottom ship with battened sails.
junk bond *n.* A corporate bond having a high yield and high risk.
jun·ket (jŭng'kĭt) *n.* 1. A custardlike dessert of flavored milk set with rennet. 2. A party, banquet, or outing. 3. A trip taken by an official and paid for with public funds. —jun'ket *v.* —jun'ket·er *n.*
□ WORD HISTORY The transitional stage between the meanings "a food" and "a trip" for *junket* is found in the meaning "picnic." The most recent sense, "a trip taken by a public official at public expense," developed in the US and has acquired decidedly negative connotations.
junk food *n.* A high-calorie food that is low in nutritional value.
junk·ie *also* junk·y (jŭng'kē) *n., pl.* -ies. *Slang.* 1. A drug addict, esp. one using heroin. 2. One with a consuming interest in something <a soap opera *junkie*>
junk mail *n.* Mail of little interest to its recipient, usu. advertisements mailed in bulk.
junk·yard (jŭngk'yärd') *n.* An area used for storing junk, as scrap metal, that can be resold.
Ju·no·esque (jōō'nō-ĕsk') *adj.* Having a stately bearing and regal beauty.
jun·ta (hōōn'tə, hōōn'-, jŭn'-) *n.* A group of persons, esp. military officers, in power following a coup d'état.
Ju·pi·ter (jōō'pĭ-tər) *n.* The 5th planet from the sun and the largest in the solar system.
ju·rid·i·cal (jōō-rĭd'ĭ-kəl) *also* ju·rid·ic (-ĭk) *adj.* Of or relating to the administration of the law.
ju·ris·dic·tion (jŏŏr-ĭs-dĭk'shən) *n.* 1. The right or power to interpret and apply the law. 2. Authority or control. 3. The territorial range over which an authority extends. —ju'ris·dic'tion·al *adj.*
ju·ris·pru·dence (jŏŏr'ĭs-prōōd'ns) *n.* 1. The science or philosophy of law. 2. A division or department of law.
ju·rist (jŏŏr'ĭst) *n.* An expert in the law.
ju·ris·tic (jōō-rĭs'tĭk) *also* ju·ris·ti·cal (-tĭ-kəl) *adj.* 1. Of or relating to jurisprudence or a jurist. 2. Of or relating to legality or law.
ju·ror (jŏŏr'ər, -ôr') *n.* One who serves on a jury.
ju·ry (jŏŏr'ē) *n., pl.* -ries. 1. A group of people called by law and sworn to hear evidence in a case and give a verdict. 2. A committee to select winners in a contest.
just (jŭst) *adj.* 1. Fair in one's dealings and actions <a *just* king> 2. Morally right. 3. Deserved : merited <*just* deserts> 4. Legitimate. 5. Proper : fitting <*just* proportions> 6. Based on sound reason. —*adv.* (jəst, jĭst; jŭst *when stressed*). 1. Exactly. 2. A very short time before <*just* left> 3. By a narrow margin : barely <*just* missed the bus> 4. Only a little distance <*just* down the street> 5. Merely : only <I *just* said it in jest> 6. Simply <*just* lovely> —just the same. Nevertheless. —just'ly *adv.* —just'ness *n.*
jus·tice (jŭs'tĭs) *n.* 1. The principle of ideal or moral rightness. 2. The upholding of what is right : fairness. 3. The administration of law. 4. A judge.
justice of the peace *n.* A local magistrate empowered to try minor cases, administer oaths, and perform marriages.
jus·ti·fy (jŭs'tə-fī') *v.* -fied, -fy·ing. 1. To show to be right or valid. 2. To pronounce free from blame or guilt. 3. To adjust or space (lines) to the proper length in printing. —jus'ti·fi'a·ble *adj.* —jus'ti·fi'a·bly *adv.* —jus'ti·fi·ca'tion *n.*
jut (jŭt) *v.* jut·ted, jut·ting. To protrude : project. —jut *n.*
jute (jōōt) *n.* Either of 2 Asian plants, *Corchorus capsularis* or *C. olitorius,* yielding a strong, coarse fiber used to make sacking and rope.
Jute *n.* A member of a Germanic people who migrated to Britain in the 5th and 6th centuries AD.
ju·ve·nile (jōō'və-nəl, -nīl') *adj.* 1. Not yet adult : young. 2. Childish : immature. 3. Intended or suitable for children or young people. —*n.* 1. A young person. 2. An actor who plays youthful roles. 3. A children's book. —ju've·nile·ness *n.*
jux·ta·pose (jŭk'stə-pōz') *v.* -posed, -posing. To put side by side. —jux'ta·po·si'tion *n.*

K

k *or* K (kā) *n., pl.* k's *or* K's. 1. The 11th letter of the English alphabet. 2. A speech sound represented by the letter *k.* 3. The 11th in a series. 4. *Computer Sci.* A unit of storage capacity equal to 1,024 bytes.
K *symbol for* POTASSIUM.
kab·ba·lah *or* ca·ba·la (kăb'ə-lə, kə-bä'lə) *n.* 1. A body of mystical teachings of rabbinical origin, often based on an esoteric interpretation of the Hebrew Scriptures. 2. A secret doctrine resembling these teachings.
ka·bob (kə-bŏb') *n.* Shish kebab.
Ka·bu·ki (kä-bōō'kē, kə-) *n.* Traditional Japanese drama in which dances and songs are performed in a stylized manner.
ka·chi·na (kə-chē'nə) *n.* 1. A deified ancestral spirit of the Pueblo peoples. 2. A carved doll resembling such a spirit.
Kad·dish (kä'dĭsh) *n.* A Jewish prayer recited at the daily service and by mourners after the death of a relative.
kaf·fee·klatsch (kŏf'ē-kläch', -klăch', kô'fē-) *n.* A coffee klatch.
Kai·ser (kī'zər) *n.* An emperor, esp. a German emperor from 1871–1918.
kale (kāl) *n.* A cabbage, *Brassica oleracea acephala,* with crinkled leaves not forming a tight head.
ka·lei·do·scope (kə-lī'də-skōp') *n.* 1. A tubular instrument rotated to produce successive symmetric designs by means of mirrors reflecting the changing patterns made by bits of loose colored glass at the end of the tube. 2. A series of continuously changing colors. 3. A series of changing events or phases. —ka·lei'do·scop'ic (-skŏp'ĭk), ka·lei'do·scop'i·cal *adj.* —ka·lei'do·scop'i·cal·ly *adv.*
ka·mi·ka·ze (kä'mĭ-kä'zē) *n.* 1. A Japanese pilot in World War II who was trained to make a suicidal crash on a target. 2. An aircraft loaded with explosives used in a suicide attack.
kan·ga·roo (kăng'gə-rōō') *n., pl.* -roo or -roos. Any of various herbivorous marsupials of the family Macropodidae, of Australia, with short forelegs, large hind limbs adapted for jumping, and a long tail.
kangaroo court *n.* An illegal, self-appointed court, esp. one marked by dishonesty or incompetence.
ka·o·lin *also* ka·o·line (kā'ə-lĭn) *n.* A fine clay used in ceramics.
ka·pok (kā'pŏk') *n.* A silky fiber derived from the fruit of the silk-cotton tree and used for insulation and as padding in mattresses, pillows, and life preservers.
ka·put (kä-pōōt') *adj. Informal.* 1. Destroyed : wrecked. 2. Out of order.
kar·a·kul *or* car·a·cul (kăr'ə-kəl) *n.* One of a breed of central Asian sheep with a pelt that is curly and shiny in the young but coarse and wiry in the adult.
kar·a·o·ke (kăr'ē-ō'kē) *n.* A music entertainment system providing prerecorded accompaniment to songs that a performer sings live.
kar·at *or* car·at (kăr'ət) *n.* A unit of measure for the fineness of gold, equal to 1/24 of the total amount of pure gold in an alloy.
ka·ra·te (kə-rä'tē, kä-rä'tā) *n.* A Japanese art of self-defense in which sharp blows and kicks are administered to pressure-sensitive points of an opponent's body.
kar·ma (kär'mə, kûr'mə) *n.* 1. The total effect of one's conduct, believed in Buddhism and Hinduism to determine one's destiny in a future life. 2. Fate. 3. *Informal.* Aura or atmosphere. —kar'mic (-mĭk) *adj.*
karst (kärst) *n.* An area of irregular limestone where erosion has produced sinkholes, caverns, and underground streams.
kart (kärt) *n.* A miniature racing car.
ka·ty·did (kā'tē-dĭd') *n.* Any of various green insects related to the grasshoppers and the crickets, with specialized organs on the wings of the male that make a shrill sound when rubbed together.
kay (kā) *n.* The letter *k.*
kay·ak (kī'ăk') *n.* A watertight Inuit or Eskimo canoe having a light frame covered with skins except for an opening in the center.
kay·o (kā-ō', kā'ō') *n., pl.* -os. *Slang.* A knockout in boxing. —kay'o *v.*
ka·zoo (kə-zōō') *n., pl.* -zoos. A toy musical instrument with a paper membrane that produces buzzing tones when a player hums or sings into the mouthpiece.
ke·bab *also* ke·bob (kə-bŏb') *n.* Shish kebab.
kedge (kĕj) *n.* A small anchor.
keel¹ (kēl) *n.* 1a. The main structural member of a ship, running lengthwise along the center line from stem to bow, to which the frames are attached. b. A similar structure in an aircraft. 2. Something that resembles a ship's keel in shape or function, as the breastbone of a bird. —*v.* To capsize. —keel over. 1. To fall over suddenly. 2. To faint.
†keel² (kēl) *v. Regional.* To make cool.
keel·haul (kēl'hôl') *v.* To drag under the keel of a ship as a punishment.
keel·son (kĕl'sən, kēl'-) *n. Naut.* A timber fastened above and parallel to the keel to give additional strength.
keen¹ (kēn) *adj.* 1. Having a sharp edge or point. 2. Intellectually acute. 3. Highly sensitive <a *keen* sense of smell> 4. Strong : intense <a *keen* winter wind> 5. Pungent. 6. Enthusiastic. 7. *Slang.* Great : wonderful. —keen'ly *adv.* —keen'ness *n.*
keen² (kēn) *n.* A wailing lament for the dead. —keen *v.*
keep (kēp) *v.* kept (kĕpt), keep·ing. 1. To retain possession of. 2. To have as a supply. 3. To provide with maintenance and support <*kept* a large family on a small income> 4. To store customarily <*kept* the bread knife in the drawer> 5. To tend : manage. 6. To continue or cause to continue in a given